

OTTO TOWNSHIP
Free Standing Ordinance No. 3
Off Road Vehicles

An ordinance authorizing and regulating the operation of Off Road Vehicles (ORVs) on county primary and county local roads in Otto Township, Oceana County, providing penalties for the violation thereof, and for the distribution of fines and costs resulting from those penalties pursuant to 2009 PA 175, MCL 324.81131.

THE TOWNSHIP OF OTTO ENACTS:

Section 1. Definitions

- a. "Township" means the Township of Otto, Oceana County.
- b. "County" means Oceana County.
- c. "Drivers license" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- d. "Maintained portion" means that portion of a road improved, designated or ordinarily used for vehicular traffic, including the gravel shoulder or paved shoulder of the road.
- e. "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- f. "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- g. "ORV" means a motor driven off road recreation vehicle capable of cross-county travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multi-track or multi-wheel drive vehicle, and ATV, a motorcycle, golf cart or related 2-wheel, 3-wheel, or 4-wheel vehicle, and amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.
- h. "Road" means a County primary road or County local road as described in section 5 of 1951 PA 51, MCL 247.655.
- i. "Road Commission": means the Board of County Road Commissioners for the County of Oceana.

- j. "Safety Certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- k. "Visual Supervision" means direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.
- l. "Township Board" means the Township Board of Otto Township.

Section 2. Operation of ORVs on County Roads

An individual may operate an ORV on a Road within the Township subject to the following regulations:

2.1 The ORV shall be operated only with the flow of traffic, on the far right of the maintained portion of the Road.

2.2 A person shall not operate an ORV at a speed greater than 25 miles per hour, or a lower posted ORV speed limit or in a manner that interferes with traffic on the Road.

2.3 ORVs shall travel single file, except when passing or being passed by another ORV.

2.4 All ORVs operating must have a lighted headlight and taillight.

2.5 Unless a person possesses a Drivers license, a Person shall not operate an ORV on a Road if the ORV is registered as a motor vehicle under the Michigan Vehicle Code and the ORV is either more than 60 inches wide or has three wheels.

2.6 A person under the age of 12 shall not operate an ORV on a Road.

2.7 A person under the age of 18 shall not operate an ORV on a Road unless the person is in possession of a valid Driver's license or is under the direct supervision of a parent or guardian and the Person has in his possession an ORV Safety Certificate issued by Michigan, another state, or a province of Canada.

2.8 All operators must, upon demand by a law enforcement officer, present either an ORV Safety Certificate or Driver's license.

2.9 An owner or person in charge of an ORV shall not allow an ORV to be operated by an individual who is incompetent to operate a vehicle because of mental or physical disability.

2.10 A child less than 16 years of age shall not operate a 3-wheeled ATV.

2.11 A person shall not operate an ORV at a rate of speed greater than is reasonable and proper, or in a careless manner having undue regard for conditions.

2.12 A person shall not operate or ride on an ORV unless they are wearing on their head a helmet and protective eyewear approved by the United States department of transportation. This section does

not apply if the vehicle is equipped with a roof that meets or exceeds standard for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.

2.13 A person shall not operate an ORV without a braking system.

2.14 A person shall not operate an ORV during the hours of ½ hour after sunset and ½ hour before sunrise without a working brake light that is brighter than the taillight.

2.15 All ORVs shall conform to the noise emission levels established by the United States environmental protection agency under the noise control act of 1912, 42 USC 4901 to 4918.

2.16 No person shall transport a passenger on an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.

2.17 No person shall operate an ORV with an opened container of alcohol unless it is in s trunk, separate compartment or is encased or enclosed.

2.18 The ORV is equipped with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

2.19 The ORV is equipped with a spark arrester type United States Forest Service approved muffler in good working order and in constant operation.

2.20 An ORV shall otherwise be operated in full compliance with all applicable provisions of state law, including, but not limited to, Part 811 of the Natural Resources and Environmental Protection Act, MCL 324.81101, et seq.

Section 3. No Township Duty to Maintain County Roads

Despite the terms of the Ordinance allowing ORVs to use portions of County Roads, the Township has no duty to, and undertakes no duty to, maintain a Road within its boundaries in a condition reasonably safe and convenient for the operation of ORVs.

Section 4. Enforcement

4.1 A violation of this ordinance is a municipal civil infraction, and a responsible person shall pay a fine of not more than \$500.00. In addition a court may order the defendant to pay the cost of repairing any damage to the environment, a road, or public property damaged as a result of the violation.

4.2 The Township Treasurer shall deposit fines and damage costs collected under this ordinance and under applicable provisions of the Revised Judicature Act, MCL 600.8379, into a fund designated as the "ORV Fund."

4.3 The Township Board shall appropriate revenue in the ORV fund as follows:

4.3.1 Fifty percent of the Township ORV Fund to be distributed to the Oceana County Sheriff's Department or to be distributed to a Township fund to cover the costs of the Township Constable, or to both, responsible for ORV enforcement and training.

4.3.2 Fifty percent to the Oceana County Road Commission for repairing damage to roads or streets and the environment that may have been caused by ORV's and for posting signs indicating ORV speed limits within Otto Township.

Section 5. Evidence. In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road pursuant to state law was in a collision with an ORV which was not being operated on the far right of the maintained portion of the road as required by this ordinance, the operator of the ORV shall be considered *negligent per se*.

Section 6. Effective Date. This ordinance shall be effective 30 days after its first publication.

This ordinance is adopted by action of the Otto Township Board this ____ day of _____ 2012.

**OTTO TOWNSHIP
RESOLUTION NO. ____**

BE IT RESOLVED THAT OTTO TOWNSHIP ADOPTS THE _____, 2012, ORV ORDINANCE.

THE RESOLUTION WAS OFFERED BY BOARD MEMBER _____ AND SUPPORTED BY BOARD MEMBER _____.

YEAS: _____

NAYS: _____

RESOLUTION DECLARED ADOPTED: _____, 2012

SUPERVISOR: _____

CLERK: _____